



Automotive Occupant Restraints Council

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National Highway Traffic Safety Administration
Docket Management
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Reference: Docket No. NHTSA 2001-8677; Notice 1

Subject: Comments on the Advanced Notice of Proposed Rule Making
for "early warning reporting requirements" of the Transportation,
Recall, Enhancement, Accountability and Documentation Act

The Automotive Occupant Restraints Council is pleased to offer its comments on the issues raised by NHTSA in its Advance Notice of Proposed Rulemaking (ANPRM) on the establishment of an early warning reporting system required by the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Notice I. These comments specifically address major concerns with the requirement to report "internal investigations" and "changes to components and service parts," as well as other portions of the ANPRM.

The Automotive Occupant Restraints Council (AORC) is an automotive industry organization with 45 member companies, who are the suppliers of occupant restraint systems, air bags, seat belts, steering wheels, and seats to the automotive industry; suppliers of components and materials to this industry; and service organizations in the industry. AORC's members produce more than 90% of the airbags, safety belts and other interior safety components that are used in the U.S. light duty vehicle fleet. As such, our objective is to reduce highway deaths and injuries by providing the reliable, effective occupant restraint technology and promoting its use.

The comments are attached hereto.

Best regards,

Lon A. Offenbacher,
Chairman

George F. Kirchoff,
President

Attachments: AORC Comments to TREAD Act
Quality Systems with Occupant Restraints Suppliers

Comments

The intent of the Congress in requiring NHTSA to establish an early warning reporting system was to develop an efficient means of identifying safety related defects. Further, the statute requires NHTSA to describe how they would use the information generated by these requirements. This requirement was incorporated into the statute to make certain that the agency would be thoughtful in its development of an early warning reporting system. And finally, with the statutory requirement that the reporting system not impose unreasonable burdens on the industry, the Congress was recognizing that it was important to make certain that both government and industry resources were used in an efficient manner in achieving this goal.

In requiring this, NHTSA must describe how they would use the information generated by these requirements when they promulgate the regulatory requirements, the Congress was enacting a provision to make certain that the agency would be thoughtful in its development of such a reporting system. In requiring that the system not impose unreasonable burdens on the industry, the Congress was recognizing that it was important to make certain that both government and industry resources were used in an efficient manner in achieving this goal.

When we examine the hearing record that produced this legislation, we see that the Congress concluded that the absence of some critical information might have impeded both the process of discovering the existence of a safety defect and the initiation of a safety recall. The Congress concluded that additional information about foreign recall campaigns combined with additional data concerning customer complaints alleging death and serious injury caused by potential safety defects can possibly produce earlier recalls. The law directly deals with these findings by requiring that this specific information must be reported to NHTSA. However, the Congress also authorized NHTSA to require the reporting of additional information that could help them identify potential safety defects.

We believe that it is very important to carefully consider the utility of any additional information in the identification of possible safety defects before imposing extensive new reporting requirements on our industry. The agency's ANPRM on the early warning reporting system does just that in raising a large number of thoughtful questions about these issues.

The AORC member companies believe that when one carefully considers the utility of information beyond that explicitly required by the statute, in almost every case the conclusion is that it will be of limited assistance to the agency in identifying defects. In fact, it might have just the opposite effect as it ties up agency resources and impedes the operation of very sophisticated quality control systems which now provide one of the principle mechanisms available to the industry to identify and remedy potential defects.

From our perspective, the existing reporting requirements have been very effective in protecting the public from the unreasonable risk presented by safety related defects. It was the National Traffic and Motor Vehicle Safety Act that established the requirements for public notification of safety-related defects and further required their remedy at no cost to vehicle owners. Since those requirements were established, there have been over seven thousand

recall campaigns, of which almost six thousand have been initiated with no government involvement at all. Over 99% of the remaining recall campaigns were campaigns that addressed issues where NHTSA had initiated some action, but were also carried out voluntarily by the auto industry.

In large part, the TREAD Act was enacted in response to a situation where the Congress concluded that if the government had more information earlier in the process, a safety recall could have been initiated sooner and possibly prevented some deaths and injuries. And thus, the Congress has required that NHTSA initiate rulemaking to establish some additional reporting requirements on the motor vehicle industry. But the statute recognizes that NHTSA must strike a balance between its need to collect information and the requirement that this be done in a manner that is productive and cost effective.

Provided that background, we will address the issues raised in the ANPRM and provide our thoughts on the type of information that can be most helpful in identifying potential safety defects as early as possible. We plan to comment first on the types of information that are required by the statute and discussed in the ANPRM second, on other types of information discussed in the ANPRM, and third on the application of these requirements to manufacturers of motor vehicle equipment.

Information Required by the Statute:

Safety Recall Campaigns in Foreign Countries. Section 3(a) of the TREAD Act requires manufacturers of motor vehicles and motor vehicle equipment to report safety recalls in foreign countries if they apply to vehicles or equipment that are substantially similar to vehicles or equipment sold in the US. This requirement took effect upon the enactment of the TREAD Act, although the agency is required to specify the contents of the notification required by this provision. Further, section 3(b) of the Act requires that the final rule on the early warning reporting system include information on “customer satisfaction campaigns, consumer advisories, recalls or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment”.

In almost every instance where a field action involving a potential safety problem with an occupant restraint system is initiated, both in the U.S. and in foreign countries, that action is initiated by the motor vehicle manufacturer. In some cases, the manufacturer of the occupant restraint system may not even be aware that a field action has been initiated. In any case, we strongly recommend that the reporting of safety field actions in foreign countries be the responsibility of the organization that initiates the campaign. There are, however, two situations where we believe that it is reasonable to impose a reporting requirement on suppliers. The first situation would address instances where a vehicle is recalled overseas that is not sold in the US. In such cases, the vehicle manufacturer would not have a reporting obligation, but the recall could involve restraint systems that are substantially similar to those incorporated in vehicles that are sold in the US. But even here, it is important to recognize that the report can only be submitted after the supplier learns that a recall has been initiated. The second situation would be if a supplier discovers a potential safety defect in a production run of replacement parts.

Information Involving Claims Alleging Death or Serious Injury Associated with a Potential Defect. Section 3(b) of the statute also requires that the final rule establishing an early warning reporting system require data on claims submitted to the manufacturer covering death or serious injury as a result of alleged defects, whether these claims arise from incidents in the US or in foreign countries.

As the agency considers the type of information that should be reported under this statutory mandate, we strongly recommend that alleged deaths or injuries claimed in lawsuits not be required to be reported to NHTSA. We make this recommendation for two reasons. The first is that these allegations are rarely timely. In almost every instance, the alleged death or injury occurred many years before the suit was filed, thus providing limited assistance in the early identification of potential defects. The second reason is the time and energy that would have to be invested in determining the accuracy of such claims goes well beyond the benefits that might result.

Aggregate Statistical Data Involving Claims Alleging Property Damage Associated with a Potential Defect. Section 3(b) also requires that the final rule establishing the early warning reporting system require the reporting of information alleging property damage resulting from potential defects. Here too we recommend that any claims arising out of litigation not be required to be reported to NHTSA.

Information Not Directly Mandated by the Statute but Which NHTSA Can Require in the Final Rule.

The previous sections of this comment addressed the information that is required by the statute. We believe that NHTSA very clearly has authority to establish some limits on those reporting requirements but we recognize that by law, information on foreign recalls and on claims alleging death, serious injury or property damage caused by an alleged defect must be reported. Beyond that, the statute gives NHTSA wide latitude in establishing reporting requirements. Here we think that the agency must decide that the other information it will require reported must be relevant and must not impose unreasonable burdens on the industry. It is with this in mind that we turn to the large number of other items that are discussed in the ANPRM.

Warranty Claims. As manufacturers of motor vehicle equipment, we do not directly receive warranty claims from vehicle owners. To the extent that our members have access to warranty claims data, it is usually associated with changes in product specifications resulting from the analysis of those claims by the vehicle manufacturers. We would recommend that no reporting of warranty claims be required of entities that have not been the direct recipient of those claims. Thus, to the extent that our member companies have limited access to warranty claims data from OEMs, they should not be required to report that information to NHTSA.

Further, we have serious questions about the utility of warranty claims data in helping NHTSA determine whether defects exist. Warranty claims are rarely specific enough to identify potential defects. While they might have some utility when reviewed selectively in conjunction with customer complaints from the field, by themselves, they are of very limited use in establishing that a defect exists or even determining that a defect investigation should

be initiated. The sheer volume of warranty claims data can overwhelm the resources of the agency and frankly, we do not believe that such information will assist in the early identification of defects.

Field Reports. We agree with NHTSA that field reports can be a useful source of information about potential safety defects. Together with owner complaints (“claims”), they can provide information about problems that occur. In fact, many of the recall campaigns that are initiated voluntarily by vehicle manufacturers are the direct consequence of field reports. Here too, our member companies do not have direct access to field reports. On occasion they are provided to suppliers by a vehicle manufacturer. However, they are not routinely supplied to equipment manufacturers and as such, we would strongly recommend that no reporting requirement for field reports be directed at equipment manufacturers.

We do believe that field reports submitted to OEMs can provide useful information. But again, we believe that if the information is to be of use to NHTSA in the identification of potential defects, the agency will need to establish a reporting framework so that field reports can be associated with vehicle systems or subsystems.

Importantly, the difficulty that we foresee with a reporting requirement focused on field reports is that they cover a very wide variety of problems. Most have nothing to do with safety. Yet to impose a requirement on companies to require the reporting of field reports (or customer complaints) without being careful to limit them to reports associated with potential safety problems can overwhelm NHTSA and impose a huge burden on manufacturers with little improvement in safety.

Consumer complaints. As we have stated concerning a number of items discussed earlier in this comment, the AORC member companies almost never directly receive complaints from consumers. To the extent that our member companies do receive consumer complaints, they are provided by the vehicle manufacturers. Here again we request that NHTSA not impose any requirement for reporting consumer complaints on entities that are not the direct recipient of those complaints.

Having taken that position, we believe that in some cases owner complaints can provide a means of helping to identify a potential safety defect. In fact, owner complaints to NHTSA via the Auto Safety Hotline provide the basis for most defect investigations initiated by the agency. And as the operator of the Hotline, NHTSA knows as well as anyone how many complaints are submitted that have no bearing on safety. For a manufacturer where most complaints do not deal with safety, the task of isolating safety complaints, categorizing them so that they may be of some utility and periodically reporting the information to NHTSA has the potential to become an enormous burden without accelerating the identification of safety defects. Here again, while we acknowledge that this may provide a potential source of information concerning safety defects, this can only occur if NHTSA give careful thought to the framework for reporting this information.

Internal Investigations. We very strongly believe that it would be a serious mistake to require the reporting of any internal investigations. We fear that if reporting requirements were established, there is a very real possibility that the number of internal investigations would be reduced in an effort to avoid the bureaucratic burden. It is also possible that the reporting

requirement would have a chilling effect on companies that are concerned that the disclosure of such investigations could potentially expose them to unwarranted and costly litigation.

In addition, if the agency would decide to require the reporting of internal investigations, it would generate a burdensome workload on the reporting companies and prove to be of very limited value to NHTSA. This category might include a very wide range of internal studies, very few of which concern potential safety defects. Studies relating to manufacturing processes, product durability, product quality and a whole range of other subjects of internal studies are regularly conducted and have no possible bearing on the identification of safety-related defects. Further, the question of what in fact constitutes an internal investigation is itself a very complex matter. For example, whenever a question is raised about a product or a process that requires a written response, does that constitute an internal investigation?

Should the agency conclude that information on internal investigations is required, it will be very important for them to carefully define just what they are. At most, we would recommend that internal investigations limited to those in response to information from the field (i.e., consumer complaints relating to safety, field reports relating to safety, etc.) suggesting the possible existence of a safety problem should be included in this category.

Changes to Components and Service Parts. Here too, we strongly recommend that the agency not establish any requirement for the reporting of changes to components and service parts. During the production of most, if not all, assembled products, there are numerous changes or adjustments made to the product and its components which may or may not be reflected in the engineering and manufacturing documents defining the various parts and processes. Most of these changes do not affect the form fit or function of the part or assembly and would cover such items as note spelling corrections and minor tolerance adjustments. Reporting of these design changes would end up being voluminous and burdensome since these types of changes occur continuously over a product's life cycle.

A very large number of changes are made to improve the manufacturing process associated with components. After products go into production, a great many changes are discovered that can reduce cost or complexity of production without any changes in product performance. Further, a large number of changes are made that to improve the appearance of a product, such as the color of safety belts, the placement of labels, etc. There are also a very large number of changes that occur because of material availability in the supply chain. Again, information on these changes would be of no assistance in identifying potential recalls. Rather, the submission of this information would overload the agency and tie up resources that could be used to otherwise identify potential safety problems.

Remedy Failures. This category of information should already be available to NHTSA as part of its regular monitoring of safety recalls. The only area where the agency might not currently have access to this information concerns campaigns conducted outside of the US. If NHTSA does decide to seek this type of information on foreign recalls, we would hope that it could be limited to a manageable number of countries, given the large number of nations (i.e. 140-190) in which vehicles are sold.

The Quality Control Process and Its Relation to Early Warning Reporting Requirements.

Given the large number of items being considered for inclusion in the early warning reporting system, it might be worthwhile for NHTSA to explore the role of quality control in vehicle manufacturing and its role in reducing the likelihood of defects occurring in the first place. The auto industry is in business to produce a wide range of high quality products that are attractive to the broadest range of consumers, and to produce these products at the lowest possible cost. Quality control is important in both assuring the production of high quality products and in assuring that those products are produced at the lowest possible cost.

The goal of the quality control process is to prevent problems from arising. That means that the process begins with the design of the product and follows through to monitor the production of the product. Virtually all aspects of product quality are continuously monitored during production. In a perfect world, that is all that would be required, since all products would satisfy precise quality control guidelines. However, in the real world, that is not always the case.

Two of the areas that NHTSA discusses in the ANPRM are, in fact, central components in a manufacturer's response to quality control monitoring. They are internal investigations and component changes. Sometimes a response to the information generated during quality control monitoring is to merely re-calibrate production equipment. However, sometimes discrepancies are discovered that must be investigated in order to determine the root cause of the problem. Internal investigations occur frequently at all levels of a manufacturing organization to do just this, identify the root cause of production problems. And when such problems are discovered, in some instances the appropriate response is to modify the design of a product.

In most cases, the discrepancies identified by the quality control process have nothing to do with safety. However, in some cases where these problems not remedied, there could be an adverse safety impact. However, the entire purpose of the QC process is to identify and rectify any discrepancies before they make their way into a product. Whether a problem has an adverse safety consequence or not, it is much less expensive to remedy the problem before a product is sold to a final customer. Both the long term cost of having dissatisfied customers and the short term costs of remedying problems through the warranty system have companies investing more and more resources in quality control.

To that end, the auto industry now demands that suppliers have effective quality control systems in place. The AIAG and the ISO 9000 have major quality control process certification programs, with third-party audits in place, designed to make certain that the QC systems are adequate and work as intended.

Finally, there are cases where manufacturers discover safety problems that the QC system did not identify in time to rectify before the vehicle was sold. Such instances almost always produce safety recalls. One only has to look at the recalls occurring shortly after a new product is launched in the U.S. to verify that the last thing that manufacturers are trying to do is to cover up problems in new products.

We believe that NHTSA needs to familiarize itself with the quality control certification programs in place throughout the motor vehicle manufacturing system. Attached is a brief summary of the quality systems currently within occupant restraint suppliers. After review, we believe the agency will conclude that there is virtually no need to require information about internal investigations or running changes as part of the early warning reporting system. In fact, should these items be included in the early warning reporting system, they will produce additional bureaucracy and cost, without providing any useful information to the agency. Finally, these additional bureaucratic burdens could result in a reduction in the number of internal investigations initiated and product changes implemented.

It is our recommendation that the early warning reporting system should concentrate on getting earlier information relating to product performance in the field and should not create additional bureaucracy that can impede the quality control process now in place.

Suppliers and the Early Warning Reporting System.

We are commenting on the ANPRM in order to provide the NHTSA with our perspective on the most effective way to develop an early warning reporting system. And in this case, we believe that it is important that the views of the suppliers to the auto manufacturers be considered. While the ultimate users of the products manufactured by AORC member companies are the motoring public, our direct customers are the motor vehicle manufacturers. And together with the motor vehicle manufacturers, we work to tailor occupant restraint technology that can perform at its peak in each and every make and model of vehicle that is produced worldwide. Thus, we are an integral partner in the development of safety critical systems for incorporation in light duty vehicles. Yet our direct dealings are almost never with the final user of our products. And it is that position which gives other suppliers and us a different perspective than that which NHTSA is usually exposed to in the course of a rulemaking.

In summary, as suppliers of materials, components and systems to the automobile manufacturer, our products are a part of the total vehicle. Their performance must be reviewed in the context of the total vehicle. Therefore, we suppliers almost always receive field information through the vehicle manufacturer. They, in turn, usually receive their data through their very sophisticated dealer and field networks. The supplier does not have a field network and must always evaluate the performance of their product in the context of the total vehicle performance as provided by the vehicle manufacturer. In our perspective, the earliest and most accurate point of early warning reporting is at the point the vehicle is in operation in the customer's hands. Once a problem is identified in this area, the supplier in concert with the vehicle manufacturer begins a very intensive investigation as to the source of the problem and correction of the potential problem. This assures that the problem is corrected and insures that the problem does not proliferate in new production.

ATTACHMENT

Quality Systems within Occupant Restraints Suppliers

Most occupant restraints suppliers are responsible for the design and manufacture of restraints components used in motor vehicles worldwide. Products are designed to meet customer and governmental requirements/regulations. Products are developed in an integrated engineering environment. Technical staffs use quality and reliability tools such as fault tree analysis (FTA), design failure mode and effects analysis (DFMEA) and process failure mode and effects analysis (PFMEA) to develop and validate robust products and products. Prior to release for production, product designs are validated for full compliance to all stated requirements. As part of the product release process, the manufacturing processes are also verified as being capable of manufacturing product to design intent. Quality and other business systems are in place to assure on-going compliance to all requirements. The quality systems maintained by our members are third-party certified to ISO9000 and/or automotive industry-specific quality systems standards (QS9000/VDA6.1). These quality standards require all certified sites to demonstrate effective quality management systems in such areas as: design control, document and data control, purchasing, gauging, process control, control of non-conformance, corrective action management and training. The emphasis is on defect prevention, not defect detection. To remain certified, quality systems must demonstrate to both customers and 3rd party registrars effectiveness and continuous improvement.

Internal and external process and product performance is measured and compared to specifications and targets. Trends are analyzed and used to take corrective actions or to further promote positive trends. Potential safety critical issues are immediately addressed in an organized and timely manner. Increasingly, we are coordinating with major customers to understand and lower warranty costs. These warranty costs and the generation of warranty repair data are in the customers' domains.

These quality systems are all charges with the *prevention* of non-conforming product. If non-conformance is discovered there are controls to minimize the possibility of shipment to customers. Traceability practices within manufacturing operations are implemented to improve product control.